

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE DIVISION

CAPELLA PHOTONICS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:20-cv-00702-GLR
)	
CIENA CORPORATION,)	
)	
Defendant.)	
_____)	

PARTIAL MOTION TO DISMISS

Ciena Corporation (“Ciena”) moves pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss with prejudice all claims of infringement by products made, purchased, offered for sale, used, or imported prior to March 17, 2020 in Capella Photonics Inc.’s Complaint. This Motion to Dismiss is based on 35 U.S.C. § 252 and the doctrine of absolute intervening rights. Alternatively, Ciena moves to dismiss with prejudice all counts of infringement of claims 23-28, 31-35, 47, 49, and 51-54 of U.S. Patent No. RE47,905 and claims 68-71, 76-77, 80, 84, 86-87, 89-91, 95, 97, 115-117, 124, and 133-37 of U.S. Patent No. RE47,906 based on the doctrine of collateral estoppel. A Memorandum in Support is filed contemporaneously with this motion.

Dated: June 8, 2020

Respectfully submitted,

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